



15 MAY 2006

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In re Application of :
BUNTAIN (deceased) :
Application No.: 10/530,072 :
PCT No.: PCT/IB03/04606 :
Int. Filing Date: 01 October 2003 :
Priority Date: 01 October 2002 :
Attorney Docket No.: 8830-330(2084212) :
For: RIB FOR A WALL CONSTRUCTION :

DECISION ON
PAPERS UNDER 37 CFR 1.42

This decision is in response to the declaration filed 28 February 2006, which is being treated as a request under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 01 October 2003, applicant filed international application PCT/IB03/04606, which claimed a priority date of 01 October 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 15 April 2004. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 01 April 2005.

On 31 March 2005, applicant filed a transmittal for entry into the national stage in the United States, which accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a copy of the international application; a preliminary amendment, and an unexecuted declaration.

On 28 November 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in compliance with 37 CFR 1.497 and the surcharge fee required under 37 CFR 1.492(e). The notification set a two-month time limit in which to respond.

On 28 February 2006, applicant filed a declaration executed by Christina Stevens Buntain on behalf of deceased inventor, Christopher Charles MacIntosh Buntain.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration filed 28 February 2006 is executed by Christina Stevens Buntain on behalf of deceased inventor, Christopher Charles MacIntosh Buntain. The declaration submitted appears to have been executed by the proper party under 37 CFR 1.42, however, the declaration does not satisfy the requirements under 37 CFR 1.497(b)(2).

37 CFR 1.497(b)(2) states the following:

(2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, or § 1.47) the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

Pursuant to revised 37 CFR 1.497(b)(2), in addition to the citizenship and former residence and post office address of the deceased inventor referenced under 37 CFR 1.497(b)(2), the declaration must also provide residence, citizenship, and post office address for the legal representative. The declaration filed on 28 February 2006 provides the residence, citizenship, and post office address for only one individual and it is unclear whether this information is for the legal representative or the deceased inventor. Accordingly, the declaration is not in compliance with 37 CFR 1.497(b)(2).

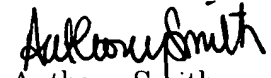
CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is REFUSED.

Applicant is required to provide an oath/declaration in compliance with 37 CFR 1.497(a)-(b) within **TWO (2) MONTH** from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Any further correspondence with respect to this matter should be addressed to: Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450,

Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

A handwritten signature in black ink, appearing to read "Anthony Smith".

Anthony Smith

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